

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CLINGMAN & HANGER
MANAGEMENT ASSOCIATES, LLC,
as Trustee of the Furie Litigation Trust,
Plaintiff,

VS.

KAY RIECK, LARS DEGENHARDT,
THEODOR VAN STEPHOUDT,
DAVID HRYCK, REED SMITH LLP,
THOMAS E. HORD, MICHAEL
ANTHONY NUNES, STONE PIGMAN
WALTHER WITTMAN LLC, in its own
capacity and as successor by merger to
COGAN & PARTNERS LLP, DAVID
ELDER, BRUCE GANER, SIERRA
PINE RESOURCES
INTERNATIONAL, INC., and
HELENA ENERGY, LLC,
Defendants.

[illegible]

Civil Action No. 4:21-cv-02698
Jury

**DEFENDANT THOMAS E. HORD'S REPLY TO
PLAINTIFF CLINGMAN & HANGER'S OPPOSITION TO
DEFENDANT THOMAS E. HORD'S MOTION TO SEVER OR DISMISS**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant Thomas E. Hord files this reply to Plaintiff Clingman & Hanger's Opposition to Defendant Thomas E. Hord's Motion to Server or Dismiss. [ECF No. 139].

1. Under FED. R. CIV. P. 21, courts have broad discretion in ruling on motions to sever. *Pave/Lock/Plus II LLC v. Erosion Prevention Products LLC*, No. 4:20-CV-3557, 2021 WL 3860715, at *1 (S.D. Tex. Aug. 30, 2021) (Hanen, J.) (citing *In re EMC Corp.*, 677 F.3d 1351, 1355 (Fed. Cir. 2021)).

2. Just because Furie Operating Alaska, LLC's bankruptcy-related claims may have been assigned to the litigation trust does not mean that Clingman & Hanger can lump every defendant who allegedly contributed to Furie's bankruptcy into a single civil case. Clingman & Hanger has joined together a variety of disparate theories and claims. There are allegations of breach of fiduciary duty related to chartering a drilling rig, pledging tax credits, providing legal services, inflating reserve estimates, etc. (Orig. Compl. ¶¶ 148-63). Hord, who handled field operations at Furie, has been implicated by Clingman & Hanger in the rig chartering allegations, allegations he vehemently denies. He has no relation to the other claims.

3. Severance would not prejudice the Furie claims. A suit echoing many of the claims and parties here has been pending in state court since 2016. *See* No. 2016-49928; *Allen L. Berry et al. v. Damon Kade et al.*; In the 125th Judicial District Court of Harris County, Texas. There, two individual holders in Furie's oil and gas leases sued many of the same parties as here—Kay Rieck, Lars Degenhardt, Thomas E. Hord, Furie Operating Alaska, LLC, etc.—alleging breach of fiduciary duty, improper accounting, conspiracy, etc. Hord and Furie have literally been sitting as co-defendants for years; never once did Furie make cross-claims against him.

4. There is substantial cross-over between the two suits, and there will likely be res judicata and collateral estoppel issues arising from the suits, not to mention duplicative discovery and trial work. That is why Hord has been seeking severance and remand.

5. Hord requests the opportunity to argue this issue before the Court to better elucidate the cross-over between the two suits. If the Court sets this case for a hearing on the

remaining motions filed by various defendants here, he asks for an opportunity to argue this motion to the Court.

CONCLUSION & PRAYER

For these reasons, Hord continues to pray that the Court sever the claims against him into a separate suit and grant him any further relief he is entitled to.

Respectfully submitted,

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By: /s/ J. Marcus Hill

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CERTIFICATE OF COMPLIANCE

I certify that this reply contains 553 words. The word count was calculated electronically using Microsoft Word.

/s/ J. Marcus Hill

J. Marcus Hill

CERTIFICATE OF SERVICE

I certify that on January 10, 2022, I electronically filed the foregoing document and all exhibits with the United States District Court for the Southern District of Texas using the court's CM/ECF system. I certify that the following parties or their counsel of record are registered as CM/ECF filers and that they will be served by the CM/ECF system:

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